

1 EDMUND G. BROWN JR.
Attorney General of the State of California
2 MIGUEL A. NERI, Supervising
Deputy Attorney General
3 FIEL TIGNO, Supervising
Deputy Attorney General
4 KAREN KIYO HUSTER
Deputy Attorney General
5 State Bar No. 173622
DAVID PAI
6 Deputy Attorney General
State Bar No. 227058
7 1515 Clay Street, Suite 2000
P.O. Box 70550
8 Oakland, CA 94612-0550
Telephone: (510) 622-2197
9 Fax: (510) 622-2121

10 Attorneys for Defendant
11 California Department of Corrections and
Rehabilitation

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14

15 **ROSARIO MARINELLO,**

Petitioner,

17 v.

18 **CALIFORNIA DEPT. OF CORRECTIONS AND**
19 **REHABILITATION,**

20 Respondent.

Case No.: C 08-0664-JW

**CASE MANAGEMENT
CONFERENCE STATEMENT**

Date: May 12, 2008

Time: 10:00 a.m.

Courtroom: 8

Judge: Honorable James Ware

Trial Date: N/A

Action Filed:

23 Defendant California Department of Corrections and Rehabilitation ("CDCR") submits the
24 following information to assist the Court in the management of this case.

- 25 1. **Jurisdiction and Service:** CDCR was served on March 20, 2008.
26 2. **Facts:** Plaintiff, proceeding in pro per, was an employee of CDCR at Salinas Valley
27 State Prison in Soledad, California. Plaintiff's claim involve apparent dissatisfaction with the
28

1 process of promotion and job reinstatement.

2 3. **Legal Issues:** Whether plaintiff filed this action within the 90-day limitations period
3 set forth under Title VII and whether plaintiff's allegations give rise to a cause of action under
4 Title VII. 42 U.S.C. §2000 et seq.

5 4. **Motions:** Defendant filed a motion to dismiss under Federal Rules of Civil Procedure,
6 Rule 12(b)(6). The motion is requested to be heard on June 23, 2008. Following discovery,
7 defendant will file a motion for summary judgment if deemed appropriate.

8 5. **Amendment of Pleadings:** At this time defendant is unaware of whether parties,
9 claims or defenses are expected to be added.

10 6. **Evidence Preservation:** Pursuant to CDCR policies, a litigation hold is in place
11 concerning any information relevant to plaintiff's claim. This includes a suspension of data
12 destruction even if normal document retention schedules would require its destruction. CDCR
13 has instructed its employees to preserve any relevant electronic files and to identify any backup
14 files.

15 7. **Disclosures:** Because defendant has been unable to communicate with plaintiff by
16 telephone or in writing, no initial disclosures have been made. Defendant anticipates providing
17 plaintiff a list of witnesses and a description of documents supporting anticipated defenses by
18 May 5, 2008.

19 8. **Discovery:** To date, no discovery had been served or received by defendant. At this
20 stage, defendant can only propose the following general discovery plan:

<u>Type</u>	<u>Anticipated completion date</u>
Interrogatories	July 2008
Document Requests	September 2008
Requests for Admissions	September 2008
Deposition of Witnesses	September 2008
Expert Depositions	October 2008

27 9. **Class Actions:** Not applicable.
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1 || 10. **Related Cases:** Defendant is unaware of any related cases at this time.

11. **Relief:** At this time defendant is unable to determine the basis of calculating damages,
if any. Defendant can provide such information following appropriate discovery.

4 12. **Settlement and ADR:** Defendants ask to defer ADR discussions until after the court
5 rules on its Rule 12(b)6 motion.

6 13. **Consent to Magistrate Judge for All Purposes:** Defendant declines to proceed
7 before a magistrate judge for all purposes.

8 || 14. **Other References:** Not applicable.

9 15. **Narrowing on issues:** None at this time.

10 16. **Expedited Schedule:** Defendant is unaware of any basis to which this matter must
11 proceed expeditiously.

12 || 17. **Scheduling:** Defendant proposes the following:

<u>Event</u>	<u>Date</u>
Expert designation	90 days before first day of trial
Discovery cut-off	30 days before first day of trial (all discovery to be completed)
Hearing on dispositive motions	30 days before first day of trial
Pretrial conference, interim	60 days before first day of trial
Final pretrial conference	7 days before first day of trial
Trial	December 8-12, 2008, or at such time the court is available

18. **Trial:** Claims for reinstatement, backpay and front pay for Title VII violation are not jury triable because they are equitable remedies. *Lutz v. Glendale Union High School*, 403 F3d 1061, 1067–1069 (9th Cir. 2005). Defendant anticipates this bench trial to be no longer than 5 days.

19. **Disclosure of Non-party Interested Entities or Persons:** Not applicable where, as
here, defendant is a government entity. N.D. Cal. R. 3-16(a).

1 20. **Other:** Defendant is unable to reach plaintiff by telephone for the purpose of
2 preparing a joint case management conference statement.

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4 Dated: May 2, 2008

5 Respectfully submitted,

6 EDMUND G. BROWN JR.
7 Attorney General of the State of California
8 MIGUEL A. NERI
9 Supervising Deputy Attorney General
10 FIEL D. TIGNO
11 Supervising Deputy Attorney General

12 /s/ _____
13 DAVID PAI
14 Deputy Attorney General

15 Attorneys for Defendant
16 California Department of Corrections and
17 Rehabilitation
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